DRAFT

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CENTRAL INTELLIGENCE AGENCY

Thank you Mr. Chairman, and members of the Committee. The CIA supports the Administration's opposition to H.R. 1013. The Agency believes the present system is working well and that additional legislative remedies are not necessary.

Let me first briefly describe the current system. As you know, the Agency has an informal agreement with your committee and the SSCI to provide notification of Presidential findings within 48 hours of the Agency receiving a signed copy of the finding.

--The committee has received advance word of every Presidential finding but for the two involving the attempted rescue of our hostages in Iran in 1979-1980 and the NSC Iran initiative of 1985 and 1986.

In addition, your committee and the SSCI are furnished with the full text of each Presidential finding and an advisory that further explains the scope of the finding. The Agency also answers numerous questions submitted for the record regarding covert actions and conducts an annual review of covert action programs for your committee and the SSCI. Finally, the Agency has a written agreement with the SSCI that provides for notification of certain activities implementing an already approved covert action. The HPSCI is, of course, notified of any activity that requires notification of the SSCI.

H.R. 1013 would attempt to formalize the process by requiring that: 1) Presidential Findings be in writing; 2) copies of all findings be provided to the HPSCI, SSCI, Vice-President, Secretary of Defense, Secretary of State, and the DCI; and deferral of notice of significant intelligence activities (covert actions) be limited to 48 hours after a finding is signed. Let me address each point separately.

CIA agrees that as a matter of policy Presidential findings should be reduced to writing, and as a practical matter it has been our experience that findings are reduced to writing. I know of no exceptions.

--Nonetheless, we join the Administration in opposing a provision that would prevent the President from taking immediate action in a crisis unless and until his decision was in writing.

However, in such a situation where it is necessary to make a decision quickly to save life, we would certainly support the establishment of a system whereby any oral finding made by the President is reduced to writing within 24 hours.

With respect to dissemination of copies of findings, the current practice is to provide State, Defense, HPSCI, and SSCI with the full text of the finding, albeit not the actual signed copy of the finding.

--H.R. 1013 would require that the President make the signed copy available. It is not apparent to us what additional benefits would be gained by requiring the dissemination of signed copies of all findings.

Furthermore, since directing the President to provide copies of findings to other executive branch officials also raises concerns with respect to erosion of executive prerogatives we, therefore, also must defer to the White House on this provision.

Finally, the requirement that notice of Presidential findings be deferred no latter than 48 hours after the finding is signed is the most troublesome provision in the proposed bill. As I have stated, our current practice is to provide notification of a Presidential finding prior to its implementation and within 48 hours of our receiving the signed copy of the finding. In most instances, the requirement in H.R. 1013 that notice be provided within 48 hours of signing as opposed to within 48 hours of our receiving the signed copy would be acceptable.

--However, there might be a situation someday where the President may deem it necessary or appropriate to delay notification for more than 48 hours.

--Moreover, the rigid 48-hour requirement in the bill poses a number of practical problems for us; for example, in instances when the President signs a finding while travelling outside Washington, the 48-hour notification requirement of H.R. 1013 would force the Agency to notify the committees of a finding which the Agency did not have in its physical possession.

We would be very reluctant to do this, given the circumstances that the wording of findings sometimes change right before the time of the signing. We have always considered it prudent to

make a determination ourselves on whether the wording of the finding has been changed in order to ensure that the Congress receives a complete and accurate text.

In summary, rather than restrict the authority of the President to delay notification and place a requirement on the Agency which would be difficult if not impossible to meet if the President signs a finding while travelling, I would urge the Committee to work with the Agency and White House to establish general standards under which decisions to delay notice will be made. These standards must reflect the principle that notification cannot be delayed except in rare instances and for only a very short period of time without placing in jeopardy the relationship of trust which we are trying to establish with the committee.

Let me also suggest that a procedure should be instituted within the Executive Branch which would require periodic review on the record of findings for which a decision to delay notice has been made. The purpose of the review would be to determine whether the circumstances that required a delay in notice to the oversight committees are still present. I also recommend that in those very rare situations requiring that knowledge of a covert activity be kept to an absolute minimum because

disclosure will result in loss of life, we should strive to make greater use of the limited notification procedure provided in section 501 of the Oversight Act. This is a more satisfactory option than delaying notification.

This concludes my statement.